

COURT OF APPEALS, TENTH APPELLATE DISTRICT OF TEXAS AT WACO

Richard Mark Dudley and Deanie Palmer Dudley v. Texas Municipal Power Agency

No. 10-25-00265-CV · No. 10-25-00265-CV · Decided May 28, 2026

SUMMARY

The Texas Court of Appeals, Tenth Appellate District, reviewed a declaratory judgment and permanent injunction concerning the parties’ rights under an electric utility easement. The court held that the easement authorized Texas Municipal Power Agency to prevent or remove obstructions, including a retaining wall, and to exercise specified vegetation-management rights. The court modified the judgment to vacate \$110,281.25 in attorneys’ fees awarded for associate attorneys and paralegals and affirmed the judgment as modified.

CASE DETAILS

COURT	Court of Appeals, Tenth Appellate District of Texas at Waco
WRITING FOR THE COURT	Justice Steve Smith; Chief Justice Johnson; Justice Harris
JURISDICTION	Texas Court of Appeals, Tenth Appellate District
DECIDED	May 28, 2026
DOCKET	10-25-00265-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from a final judgment granting TMPA declaratory and permanent injunctive relief and awarding attorneys’ fees in a declaratory judgment action concerning an electric-power easement.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Permanent injunctive relief is reviewed for abuse of discretion, with the summary-judgment standard also applying when the injunction follows summary judgment. Attorneys’ fee awards under the Declaratory Judgments Act are reviewed for abuse of discretion, with legal and factual sufficiency considered in determining whether discretion was properly exercised.
PRECEDENTIAL VALUE	Published memorandum opinion of the Texas Court of Appeals, Tenth District at Waco.
PARTIES	Richard Mark Dudley, Deanie Palmer Dudley v. Texas Municipal Power Agency

TOPICS

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declaratory judgment

equitable relief

remedies

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court's declarations accurately interpreted the easement regarding tree removal, construction of structures and obstructions, fencing, and TMPA's authority to remove the retaining wall.
2. Whether the permanent injunctions were procedurally proper, sufficiently clear, narrowly tailored, and supported by proof of irreparable injury and the absence of an adequate remedy at law.
3. Whether legally and factually sufficient evidence supported the award of \$223,556.25 in attorneys' fees and whether the trial court properly applied the lodestar method.
4. Whether the attorneys' fee award was equitable and just.
5. Whether the trial court's findings of fact and refusal to make additional findings required reversal.
6. Whether the attorneys' fee award exceeded the relief pleaded under Texas Rule of Civil Procedure 47.

HOLDINGS

1. The trial court correctly interpreted the easement according to its plain language and entirety. TMPA retained discretion to trim or remove vegetation as authorized by the easement; the Dudleys could not construct or maintain buildings, structures, or obstructions in the easement area without TMPA's consent; the retaining wall was a structure rather than a permitted fence; and TMPA could remove the retaining wall if it interfered with TMPA's easement rights.
2. The permanent injunctions were not vague, unclear, or overly broad, and TMPA established wrongful conduct, imminent harm, irreparable injury, and the absence of an adequate remedy at law.
3. The trial court properly awarded \$113,275 for lead counsel Frederick Junkin's work because the evidence sufficiently established the reasonable hours, reasonable hourly rate, services performed, and the equitable and just nature of the award. However, the evidence was legally insufficient to support \$110,281.25 attributable to associate attorneys and paralegals because it lacked required evidence of their qualifications and, for paralegals, supervision.
4. The attorneys' fee award did not exceed the relief pleaded under Texas Rule of Civil Procedure 47 because the statement seeking monetary relief of \$100,000 or less did not include the separately pleaded request for attorneys' fees under the Declaratory Judgments Act.

KEY QUOTATIONS

"If the easement's terms can be given a definite or certain meaning, then the language is not ambiguous, and the court is obligated to interpret the contract as a matter of law." (6)

“To be entitled to a permanent injunction, a party must prove (1) a wrongful act, (2) imminent harm, (3) an irreparable injury, and (4) the absence of an adequate remedy at law.” (15)

“Sufficient evidence includes evidence of (1) particular services performed, (2) who performed those services, (3) approximately when the services were performed, (4) the reasonable amount of time required to perform the services, and (5) the reasonable hourly rate for each person performing such services.” (27)

FACTUAL BACKGROUND

The Dudleys purchased Brazos County property subject to a 1979 easement granting TMPA rights to access, operate, maintain, and remove electric-power and communication lines. The Dudleys placed a propane tank, playground equipment, landscaping, trees, and a retaining wall within the easement area, some of which impeded access and created safety concerns. After requests to remove the obstructions failed, TMPA sued for declarations and injunctive relief; the trial court granted TMPA relief and awarded attorneys’ fees.

PROCEDURAL HISTORY

TMPA sued the Dudleys over structures, landscaping, and other obstructions placed within an electric-power easement and sought declaratory and injunctive relief. The trial court granted TMPA’s partial summary-judgment motions, rejected the Dudleys’ counterclaims and defenses, conducted a bench trial limited to attorneys’ fees, and entered final judgment awarding TMPA \$223,556.25 in fees plus conditional appellate fees. The court of appeals vacated \$110,281.25 of the fee award attributable to associate attorneys and paralegals and affirmed the remainder.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The judgment was modified to vacate the \$110,281.25 attorneys’ fee award for associate attorneys and paralegals, and the remainder was affirmed.

CASES CITED

- Wright v. Jones, 674 S.W.3d 704, 709 (Tex. App.—Waco 2023, no pet.)
- Eagle Oil & Gas Co. v. TRO-X, L.P., 619 S.W.3d 699, 705 (Tex. 2021)
- Lujan v. Navistar, Inc., 555 S.W.3d 79, 84 (Tex. 2018)
- B.C. v. Steak N Shake Operations, Inc., 512 S.W.3d 276, 279 (Tex. 2017)
- Lance v. Robinson, 543 S.W.3d 723, 736 (Tex. 2018)
- Target Corp. v. D&H Props., LLC, 637 S.W.3d 816, 829 (Tex. App.—Houston [14th Dist.] 2021, pet. denied)
- Sw. Elec. Power Co. v. Lynch, 595 S.W.3d 678, 686 (Tex. 2020)
- DeWitt Cty. Elec. Coop., Inc. v. Parks, 1 S.W.3d 96, 100-01 (Tex. 1999)

- ORIX Capital Mkts., LLC v. La Villita Motor Inn, J.V., 329 S.W.3d 30, 44 (Tex. App.—San Antonio 2010, pet. denied)
- Tanglewood Homes Ass’n, Inc. v. Feldman, 436 S.W.3d 48, 76 (Tex. App.—Houston [14th Dist.] 2014, pet. denied)
- Jim Rutherford Invs., Inc. v. Terramar Beach Cmty. Ass’n, 25 S.W.3d 845, 848-49 (Tex. App.—Houston [14th Dist.] 2000, pet. denied)
- Luminant Energy Co. LLC v. Public Util. Comm’n of Tex., 665 S.W.3d 166, 181 (Tex. App.—Austin 2023), rev’d on other grounds, 691 S.W.3d 448 (Tex. 2024)
- Pike v. Tex. EMC Mgt., LLC, 610 S.W.3d 763, 792 (Tex. 2020)
- Ex parte Blasingame, 748 S.W.2d 444, 446 (Tex. 1988) (orig. proceeding)
- TMRJ Holdings, Inc. v. Inhance Techs., LLC, 540 S.W.3d 202, 212 (Tex. App.—Houston [1st Dist.] 2018, no pet.)
- Heritage Res., Inc. v. NationsBank, 939 S.W.2d 118, 121 (Tex. 1996)
- Huynh v. Blanchard, 694 S.W.3d 648, 676 (Tex. 2024)
- Butnaru v. Ford Motor Co., 84 S.W.3d 198, 204 (Tex. 2002)
- Campbell v. Wilder, 487 S.W.3d 146, 152 (Tex. 2016)
- Bocquet v. Herring, 972 S.W.2d 19, 21 (Tex. 1998)
- Westheimer v. Ziemer, 702 S.W.3d 621, 628, 633-34 (Tex. App.—Houston [1st Dist.] 2024, no pet.)
- Exxon Corp. v. Emerald Oil & Gas Co., 348 S.W.3d 194, 215 (Tex. 2011)
- Haggard Clothing Co. v. Hernandez, 164 S.W.3d 386, 388 (Tex. 2005) (per curiam)
- Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986) (per curiam)
- Arthur Andersen & Co. v. Perry Equip. Corp., 945 S.W.2d 812, 818 (Tex. 1997)
- Halsey v. Halter, 486 S.W.3d 184, 189 (Tex. App.—Dallas 2016, no pet.)
- Blum v. Stenson, 465 U.S. 886, 895 n.11 (1984)
- Garcia v. Gomez, 319 S.W.3d 638, 641 (Tex. 2010)
- Tex. Commerce Bank, Nat’l Ass’n v. New, 3 S.W.3d 515, 517-18 (Tex. 1999)
- Windrum v. Kareh, 581 S.W.3d 761, 768 (Tex. 2019)
- Jarvis v. Rocanville Corp., 298 S.W.3d 305, 318 (Tex. App.—Dallas 2009, pet. denied)
- Golden Eagle Archery, Inc. v. Jackson, 116 S.W.3d 757, 761 (Tex. 2003)
- Miranda v. Byles, 390 S.W.3d 543, 553 (Tex. App.—Houston [1st Dist.] 2012, pet. denied) (op. on reh’g)
- Zhang v. Capital Plastic & Bags, Inc., 587 S.W.3d 82, 88-89 (Tex. App.—Houston [14th Dist.] 2019, pet. denied)
- Holt Atherton Indus., Inc. v. Heine, 835 S.W.2d 80, 86 (Tex. 1992)
- All Seasons Windows & Door Mfg., Inc. v. Red Dot Corp., 181 S.W.3d 490, 505 (Tex. App.—Texarkana 2005, no pet.)
- Ridge Oil Co. v. Guinn Invs., Inc., 148 S.W.3d 143, 162 (Tex. 2004)
- Tex. Health Harris Methodist Hosp. Fort Worth v. Featherly, No. 02-24-00572-CV, 2025 WL 3723946, at *20 (Tex. App.—Fort Worth Dec. 23, 2025, no pet.) (mem. op.)

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